



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1206013412-2517-02]

RIN 0648-XC702

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2013 Commercial Accountability Measure and Closure for Gulf of
Mexico Greater Amberjack

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial greater amberjack in the Gulf of Mexico (Gulf) reef fish fishery for the 2013 fishing year through this temporary final rule. Commercial landings for greater amberjack, as estimated by the Science and Research Director (SRD), are projected to reach the commercial ACT (commercial quota) on July 1, 2013. Therefore, NMFS closes the commercial sector for greater amberjack in the Gulf on July 1, 2013, and it will remain closed until the start of the next fishing season, January 1, 2014. This closure is necessary to protect the Gulf greater amberjack resource.

DATES: This rule is effective 12:01 a.m., local time, July 1, 2013, until 12:01 a.m., local time, January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, telephone: 727-824-5305, or e-mail: Rich.Malinowski@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the reef fish fishery of the Gulf, which includes greater amberjack, under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All greater amberjack weights discussed in this temporary rule are in round weight.

The commercial annual catch limit (ACL) for Gulf greater amberjack is 481,000 lb (218,178 kg), as specified in 50 CFR 622.41(a)(1), and the commercial ACT (equivalent to the commercial quota) is 409,000 lb (185,519 kg), as specified in 50 CFR 622.39(a)(1)(v). However, due to an overage of the commercial ACL in 2012, NMFS implemented AMS to reduce the commercial ACT and ACL in 2013. The commercial ACT (commercial quota) was reduced to 338,157 lb (153,385 kg) for 2013 and the commercial ACL was reduced to 410,157 lb (186,044 kg) for 2013 through a temporary rule (78 FR 13284, February 27, 2013).

Under 50 CFR 622.41(a)(1)(i), NMFS is required to close the commercial sector for greater amberjack when the commercial ACT (commercial quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the adjusted 2013 commercial ACT (commercial quota) will be reached by July 1, 2013. Accordingly, the commercial sector for Gulf greater amberjack is closed effective 12:01 a.m., local time, July 1, 2013, until 12:01 a.m., local time, January 1, 2014.

The operator of a vessel with a valid commercial vessel permit for Gulf reef fish having greater amberjack aboard must have landed, bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, July 1, 2013. A person aboard a vessel that has a Federal commercial vessel permit for Gulf reef fish and commercial quantities of Gulf reef fish, may not possess Gulf reef fish caught under a bag limit, as specified in 50 CFR 622.38(a)(2). During the commercial closure, the bag limit specified in 50 CFR 622.38(b)(1), applies to all harvest or possession of greater amberjack in or from the Gulf EEZ, including the bag limit that may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero. During the commercial closure, the possession limits specified in 50 CFR

622.38(c), apply to all harvest or possession of greater amberjack in or from the Gulf EEZ. However, from June 1 through July 31 each year, the recreational sector for greater amberjack is also closed, as specified in 50 CFR 622.34(c), and during this recreational closure, the bag and possession limit for greater amberjack in or from the Gulf EEZ is zero. During the commercial closure, the sale or purchase of greater amberjack taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 1, 2013, and were held in cold storage by a dealer or processor.

The 2014 commercial ACT (commercial quota) for greater amberjack will return to 409,000 lb (185,519 kg), as specified at 50 CFR 622.39(a)(1)(v), and the commercial ACL for greater amberjack will return to 481,000 lb (218,178 kg), as specified in 50 CFR 622.41(a)(1)(iii), unless AMs are implemented due to a commercial ACL overage, or the Council takes subsequent regulatory action to adjust the commercial ACT (commercial quota) and commercial ACL.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation

and management of the Gulf greater amberjack component of the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

This action is taken under 50 CFR 622.41(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for greater amberjack constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Additionally, prior notice and opportunity for public comment would be contrary to the public interest. Given the ability of the commercial sector to rapidly harvest fishery resources, there is a need to immediately implement the closure

for the remainder of the 2013 fishing year. Taking time to provide prior notice and opportunity for public comment creates a higher likelihood of the reduced commercial ACT (commercial quota) and commercial ACL being exceeded.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: June 17, 2013.

Kelly Denit,
Acting Deputy Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2013-14745 Filed 06/17/2013 at 4:15 pm; Publication
Date: 06/20/2013]